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**U.S. District Court
Eastern District of New York (Brooklyn)
CIVIL DOCKET FOR CASE #: 1:18-cv-02445-NGG-JO**

Make the Road New York et al v. U.S. Department of Homeland Security
et al
Assigned to: Judge Nicholas G. Garaufis
Referred to: Magistrate Judge James Orenstein
Cause: 05:552 Freedom of Information Act

Date Filed: 04/25/2018
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

Make the Road New York

represented by **Joshua Rosenthal**

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Plaintiff

Make the Road Connecticut

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(See above for address)
ATTORNEY TO BE NOTICED

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TERMINATED: 02/14/2019
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Trudy Sumiko Rebert
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V.

Defendant

U.S. Department of Homeland Security

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Defendant

Office of the Secretary of Homeland Security

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Defendant

U.S. Citizenship and Immigration Services

represented by **Rachael Westmoreland**
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Defendant

U.S. Department of Justice

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Defendant

Office of the Attorney General

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Defendant

Office of the Solicitor General

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Defendant

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Defendant

U.S. Department of Justice - Civil Division

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Date Filed	#	Docket Text
04/25/2018	<u>1</u>	COMPLAINT against All Defendants filing fee \$ 400, receipt number 0207-10383422 Was the Disclosure Statement on Civil Cover Sheet completed -YES,, filed by Make the Road Connecticut, Make the Road New York. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Proposed Summons U.S. Department of Homeland Security, # <u>3</u> Proposed Summons Office of the Secretary of Homeland Security, # <u>4</u> Proposed Summons United States Citizenship and Immigration Services, # <u>5</u> Proposed Summons U.S. Department of Justice, # <u>6</u> Proposed Summons Office of the Attorney General, # <u>7</u> Proposed Summons Office of the Solicitor General, # <u>8</u> Proposed Summons Office of Legal Counsel, # <u>9</u> Exhibit A, # <u>10</u> Exhibit B, # <u>11</u> Exhibit C, # <u>12</u> Exhibit D, # <u>13</u> Exhibit E, # <u>14</u> Exhibit F, # <u>15</u> Exhibit G, # <u>16</u> Exhibit H, # <u>17</u> Exhibit I, # <u>18</u> Exhibit J, # <u>19</u> Exhibit K, # <u>20</u> Exhibit L, # <u>21</u> Exhibit M, # <u>22</u> Exhibit N) (Rebert, Trudy) (Entered: 04/25/2018)
04/25/2018		Case assigned to Judge Pamela K. Chen and Magistrate Judge Steven M. Gold. Please download and review the Individual Practices of the assigned Judges, located on our <u>website</u> . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. (Bowens, Priscilla) (Entered: 04/26/2018)
04/25/2018	<u>2</u>	Summons Issued as to All Defendants, U.S. Attorney and U.S. Attorney General (Bowens, Priscilla) (Entered: 04/26/2018)
04/26/2018	<u>3</u>	In accordance with Rule 73 of the Federal Rules of Civil Procedure and Local Rule 73.1, the parties are notified that if all parties consent a United States magistrate judge of this court is available to conduct all proceedings in this civil action including a (jury or nonjury) trial and to order the entry of a final judgment. Attached to the Notice is a blank copy of the consent form that should be filled out, signed and filed electronically only if all parties wish to consent. The form may also be accessed at the following link: http://www.uscourts.gov/uscourts/FormsAndFees/Forms/AO085.pdf . You may withhold your consent without adverse substantive consequences. Do NOT return or file the consent unless all parties have signed the consent. (Bowens, Priscilla) (Entered: 04/26/2018)
04/26/2018	<u>4</u>	This attorney case opening filing has been checked for quality control. See the attachment for corrections that were made, if any. (Bowens, Priscilla) (Entered: 04/26/2018)
04/26/2018	<u>5</u>	Notice of Related Case (Bowens, Priscilla) (Entered: 04/26/2018)
05/09/2018		ORDER REASSIGNING CASE. Case reassigned to Judge Nicholas G. Garaufis and Magistrate Judge James Orenstein for all further proceedings. Judge Pamela K. Chen, Magistrate Judge Steven M. Gold no longer assigned to case Please download and review the Individual Practices of the assigned Judges, located on our <u>website</u> . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. Ordered by Chief Judge Dora Lizette Irizarry on 5/9/2018. (Bowens, Priscilla) (Entered: 05/09/2018)
05/14/2018	<u>6</u>	Proposed Summons. Re <u>1</u> Complaint,,, by Make the Road Connecticut, Make the Road New York (Rebert, Trudy) (Entered: 05/14/2018)
05/14/2018	<u>7</u>	Proposed Summons. Re <u>1</u> Complaint,,, by Make the Road Connecticut, Make the Road New York (Rebert, Trudy) (Entered: 05/14/2018)

05/14/2018	8	Proposed Summons. Re 1 Complaint,,, by Make the Road Connecticut, Make the Road New York (Rebert, Trudy) (Entered: 05/14/2018)
05/14/2018	9	Proposed Summons. Re 1 Complaint,,, by Make the Road Connecticut, Make the Road New York (Rebert, Trudy) (Entered: 05/14/2018)
05/14/2018	10	Proposed Summons. Re 1 Complaint,,, by Make the Road Connecticut, Make the Road New York (Rebert, Trudy) (Entered: 05/14/2018)
05/14/2018	11	Proposed Summons. Re 1 Complaint,,, by Make the Road Connecticut, Make the Road New York (Rebert, Trudy) (Entered: 05/14/2018)
05/14/2018	12	Proposed Summons. Re 1 Complaint,,, by Make the Road Connecticut, Make the Road New York (Rebert, Trudy) (Entered: 05/14/2018)
05/15/2018	13	Amended (Reissued) Summons as to Office of Legal Counsel, Office of the Attorney General, Office of the Secretary of Homeland Security, Office of the Solicitor General, U.S. Citizenship and Immigration Services, U.S. Department of Homeland Security, U.S. Department of Justice. (Attachments: # 1 Office of the AG, # 2 Secretary Homeland, # 3 Solicitor General, # 4 Citizenship and Immigration, # 5 DOJ, # 6 Homeland) (Lee, Tiffeny) (Entered: 05/15/2018)
05/21/2018	14	MOTION for Leave to Appear Pro Hac Vice <i>on behalf of Justin B. Cox</i> Filing fee \$ 150, receipt number 0207-10448388. by Make the Road Connecticut, Make the Road New York. (Attachments: # 1 Affidavit in Support, # 2 Certificates of Good Standing) (Cox, Justin) (Entered: 05/21/2018)
05/22/2018		ORDER granting 14 Motion for Leave to Appear Pro Hac Vice -- Attorney Justin B. Cox, Esq. is permitted to argue or try this case in whole or in part as counsel or advocate. By May 29, 2018, Mr. Cox shall register for ECF. Registration is available online at the EDNY's homepage. Once registered, Mr. Cox shall file a notice of appearance and ensure that he receives electronic notification of activity in this case. Mr. Cox shall also ensure that the \$150 admission fee be submitted to the Clerk's Office. Ordered by Magistrate Judge James Orenstein on 5/22/2018. (Salvador, Anjali) (Entered: 05/22/2018)
05/22/2018	15	NOTICE of Appearance by Justin B. Cox on behalf of All Plaintiffs (notification declined or already on case) (Cox, Justin) (Entered: 05/22/2018)
05/30/2018	16	SUMMONS Returned Executed by Make the Road Connecticut, Make the Road New York. Office of Legal Counsel served on 4/30/2018, answer due 5/21/2018; Office of the Attorney General served on 4/30/2018, answer due 5/21/2018; Office of the Secretary of Homeland Security served on 5/2/2018, answer due 5/23/2018; Office of the Solicitor General served on 4/30/2018, answer due 5/21/2018; U.S. Citizenship and Immigration Services served on 5/3/2018, answer due 5/24/2018; U.S. Department of Homeland Security served on 5/2/2018, answer due 5/23/2018; U.S. Department of Justice served on 4/30/2018, answer due 5/21/2018. (Cox, Justin) (Entered: 05/30/2018)
05/31/2018	17	Letter <i>MOTION for scheduling conference</i> by Make the Road Connecticut, Make the Road New York (Cox, Justin) (Entered: 05/31/2018)
06/04/2018	18	ANSWER to 1 Complaint,,, by All Defendants. (Westmoreland, Rachael) (Entered: 06/04/2018)
06/13/2018	19	REPLY in Opposition re 17 Letter <i>Motion</i> filed by All Defendants. (Westmoreland, Rachael) (Entered: 06/13/2018)
06/25/2018	20	NOTICE of Appearance by Joshua Rosenthal on behalf of All Plaintiffs (aty to be noticed) (Attachments: # 1 Certificate of Service) (Rosenthal, Joshua) (Entered: 06/25/2018)
06/25/2018	21	AMENDED COMPLAINT against Office of Legal Counsel, Office of the Attorney General, Office of the Secretary of Homeland Security, Office of the Solicitor General, U.S. Citizenship and Immigration Services, U.S. Department of Homeland Security, U.S. Department of Justice, filed by Make the Road Connecticut, Make the Road New York. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit G, # 8 Exhibit H, # 9 Exhibit I, # 10 Exhibit J, # 11 Exhibit K, # 12 Exhibit L, # 13 Exhibit M, # 14 Exhibit N, # 15 Exhibit O, # 16 Exhibit P, # 17 Certificate of Service). (Rebert, Trudy) (Main Document 21 replaced to corrected Amended Complaint per phone request on 6/26/2018). (Layne, Monique). Modified on 6/26/2018. (Layne, Monique). (Entered: 06/25/2018)
06/26/2018	22	Proposed Summons. Re 21 Amended Complaint,,, by Make the Road Connecticut, Make the Road New York (Rosenthal, Joshua) (Entered: 06/26/2018)
06/27/2018	23	Summons Issued re 21 Amended Complaint as to U.S. Department of Justice, U.S. Attorney and U.S. Attorney General. (Lee, Tiffeny) (Entered: 06/27/2018)

07/05/2018	24	Letter MOTION for Extension of Time to File Answer re 21 Amended Complaint,,, by Office of Legal Counsel, Office of the Attorney General, Office of the Secretary of Homeland Security, Office of the Solicitor General, U.S. Citizenship and Immigration Services, U.S. Department of Homeland Security, U.S. Department of Justice. (Westmoreland, Rachael) (Entered: 07/05/2018)
07/06/2018	25	ORDER granting 24 Motion for Extension of Time to Answer re 21 Amended Complaint, Defendants' answer due 7/16/2018. So Ordered by Judge Nicholas G. Garaufis on 7/5/2018. (Lee, Tiffeny) (Entered: 07/06/2018)
07/12/2018	26	SUMMONS Returned Executed by Make the Road Connecticut, Make the Road New York. U.S. Department of Justice - Civil Division served on 6/27/2018, answer due 8/27/2018. (Rosenthal, Joshua) (Entered: 07/12/2018)
07/16/2018	27	ANSWER to 21 Amended Complaint,,, by All Defendants. (Westmoreland, Rachael) (Entered: 07/16/2018)
09/14/2018	28	STATUS REPORT <i>JOINT</i> by Make the Road Connecticut, Make the Road New York (Rosenthal, Joshua) (Entered: 09/14/2018)
09/26/2018	29	Second MOTION for Hearing <i>for a Status Conference</i> by Make the Road Connecticut, Make the Road New York. (Rosenthal, Joshua) (Entered: 09/26/2018)
10/10/2018	30	NOTICE of Change of Address (Westmoreland, Rachael) (Entered: 10/10/2018)
10/10/2018	31	RESPONSE in Opposition re 29 Second MOTION for Hearing <i>for a Status Conference</i> filed by All Defendants. (Westmoreland, Rachael) (Entered: 10/10/2018)
10/11/2018		ORDER re: Plaintiffs' 29 Application for Status Conference: The Application is GRANTED. The parties are directed to confer and contact the court's Deputy at 718-613-2545 to schedule the status conference. At the status conference, the parties can address the areas of dispute identified in Plaintiffs' Application, including whether a global scheduling order is necessary. Ordered by Judge Nicholas G. Garaufis on 10/11/2018. (Haddad, Andrew) (Entered: 10/11/2018)
10/30/2018	32	STATUS REPORT <i>Second Joint Status Report</i> by Make the Road New York (Rosenthal, Joshua) (Entered: 10/30/2018)
11/02/2018		Minute Entry for proceedings held before Judge Nicholas G. Garaufis: Status Conference held on 11/1/2018. Counsel for all parties present. The parties reported on the progress of Defendants' document review and production and addressed the areas of dispute identified in Plaintiffs' 29 September 26, 2018, letter. The court directed Plaintiffs to file a proposed global scheduling order by no later than November 5, 2018, and directed Defendant U.S. Department of Homeland Security to file a declaration regarding its resource constraints by no later than November 9, 2018. The parties also reported that Defendant Office of the Attorney General plans to update Plaintiffs regarding the progress of its document review and production by November 8, 2018; the parties shall advise the court once that update is made. (Court Reporter Georgette Betts) (Haddad, Andrew) (Entered: 11/02/2018)
11/05/2018	33	MOTION to Expedite <i>FOIA Production and Request for Global Scheduling Order</i> by Make the Road Connecticut, Make the Road New York. (Rosenthal, Joshua) (Entered: 11/05/2018)
11/06/2018		ORDER re: Plaintiffs' 33 Request for a Global Scheduling Order: Defendants are DIRECTED to file a response to Plaintiff's proposed schedule by no later than 5:00 P.M. on November 9, 2018. If Defendants do not consent to Plaintiffs' proposed schedule, Defendants' response should include an alternative proposed schedule. Defendants' response should also address whether Defendant U.S. Department of Homeland Security ("DHS") should be required (as Plaintiffs request) to prioritize review of the 35 documents that were submitted to Judge Alsup in <i>Regents of the University of California v. DHS</i> , No. 17-cv-5211 (N.D. Cal.). The court notes that, in addition to Defendants' response to Plaintiffs' proposed schedule, DHS should also submit a declaration regarding its resource constraints by no later than November 9, 2018, pursuant to the court's order at the November 1, 2018 status conference. Ordered by Judge Nicholas G. Garaufis on 11/6/2018. (Haddad, Andrew) (Entered: 11/06/2018)
11/09/2018	34	RESPONSE in Opposition re 33 MOTION to Expedite <i>FOIA Production and Request for Global Scheduling Order</i> filed by All Defendants. (Attachments: # 1 Exhibit 1- Holzer Declaration) (Westmoreland, Rachael) (Entered: 11/09/2018)

11/16/2018	35	MEMORANDUM & ORDER, For the foregoing reasons, the court GRANTS IN PART Plaintiffs' Motion for a Global Scheduling Order (Dkt. 33). DHS and USCIS are DIRECTED to produce all outstanding records on a rolling monthly basis by no later than February 28, 2019. OIP is DIRECTED to complete its search for records potentially responsive to Plaintiffs' FOIA request, confer with Plaintiffs, and propose a production schedule to the court by no later than December 21, 2018; if Plaintiffs do not agree with OIP's proposed schedule, they shall respond by no later than January 4, 2019. When the court sets a deadline for OIP to complete production, the court will simultaneously set a deadline for the submission of dispositive motions. The court declines to order Defendants to produce <u>Vaughn</u> indices at this time; Plaintiffs may renew their request at a later date. So Ordered by Judge Nicholas G. Garaufis on 11/16/2018. (Lee, Tiffeny) (Entered: 11/16/2018)
12/21/2018	36	NOTICE by Office of the Attorney General, U.S. Department of Justice <i>of Filing Proposed Procesing Schedule</i> (Westmoreland, Rachael) (Entered: 12/21/2018)
12/26/2018	37	NOTICE by Make the Road Connecticut, Make the Road New York <i>Plaintiffs Proposed Production Schedule for Defendant OIP</i> (Rosenthal, Joshua) (Entered: 12/26/2018)
01/11/2019	38	MOTION to Stay by Office of Legal Counsel, Office of the Attorney General, Office of the Secretary of Homeland Security, Office of the Solicitor General, U.S. Citizenship and Immigration Services, U.S. Department of Homeland Security, U.S. Department of Justice, U.S. Department of Justice - Civil Division. (Westmoreland, Rachael) (Entered: 01/11/2019)
01/14/2019		ORDER: Defendants' 38 Motion to Stay is GRANTED. All FOIA processing deadlines as applied to the U.S. Department of Homeland Security ("DHS") and the U.S. Department of Justice Office of Information Policy ("OIP") are stayed until Congress has restored appropriations to DHS and the Department of Justice ("DOJ"). Defendants are DIRECTED to inform the court and all parties by no later than two days after the date on which funding is restored for DHS and DOJ. Afterward, the court will set a deadline for OIP to complete production (see Dkts. 36 , 37) and decide whether, and by how much time, to extend the parties' other deadlines. Ordered by Judge Nicholas G. Garaufis on 1/14/2019. (Haddad, Andrew) (Entered: 01/14/2019)
01/30/2019	39	NOTICE by Office of Legal Counsel, Office of the Attorney General, Office of the Secretary of Homeland Security, Office of the Solicitor General, U.S. Citizenship and Immigration Services, U.S. Department of Homeland Security, U.S. Department of Justice, U.S. Department of Justice - Civil Division <i>to the Court of Restoration of Appropriations</i> (Westmoreland, Rachael) (Entered: 01/30/2019)
01/31/2019	40	NOTICE by Make the Road Connecticut, Make the Road New York re 39 Notice(Other), <i>in Response to Proposed Deadlines</i> (Rosenthal, Joshua) (Entered: 01/31/2019)
02/01/2019		ORDER re: Defendants' 39 Requests to Extend Production Deadlines: The Court GRANTS the U.S. Department of Homeland Security's ("DHS") request to extend its production deadline until April 4, 2019 to account for the 35-day lapse in appropriations for DHS. Additionally, DHS is DIRECTED to submit an explanation, by no later than February 8, 2019, for why it did not produce documents in November or December 2018. (See Pls. Jan. 31, 2019 Resp. (Dkt. 40) para. 3.) The court DENIES the U.S. Department of Justice Office of Information Policy's ("OIP") request for a June 10, 2019 production deadline. Instead, OIP is DIRECTED to complete production of all outstanding records by no later than April 19, 2019, and to produce records on a rolling monthly basis. Furthermore, the parties are DIRECTED to file any dispositive motions by no later than May 20, 2019; responses must be filed by no later than June 3, 2019; and replies, if any, must be filed by no later than June 10, 2019. The parties need not request a pre-motion conference before filing a dispositive motion, notwithstanding the undersigned's Individual Rule III(A)(2). Ordered by Judge Nicholas G. Garaufis on 2/1/2019. (Haddad, Andrew) (Entered: 02/01/2019)
02/08/2019	41	NOTICE by U.S. Department of Homeland Security (Westmoreland, Rachael) (Entered: 02/08/2019)
02/13/2019	42	NOTICE by Make the Road New York (Attachments: # 1 Proposed Order) (Rosenthal, Joshua) Modified to Motion to Withdraw as Attorney on 2/14/2019 (Lee, Tiffeny). (Entered: 02/13/2019)
02/14/2019		ORDER granting 42 Motion to Withdraw as Attorney -- The motion is granted; attorney Justin B. Cox terminated. Ordered by Magistrate Judge James Orenstein on 2/14/2019. (Gustafson, Kaelyn) (Entered: 02/14/2019)
02/27/2019	43	NOTICE of Appearance by Joanna Elise Cuevas Ingram on behalf of Make the Road Connecticut, Make the Road New York (aty to be noticed) (Cuevas Ingram, Joanna) (Entered: 02/27/2019)
03/12/2019	44	NOTICE of Change of Address/Phone (Rosenthal, Joshua) (Entered: 03/12/2019)

03/20/2019	45	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings held on November 1, 2018, before Judge Nicholas G. Garaufis. Court Reporter/Transcriber Georgette K. Betts, Telephone number 718-804-2777. Email address: georgette_betts@nyed.uscourts.gov. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. File redaction request using event "Redaction Request - Transcript" located under "Other Filings - Other Documents". Redaction Request due 4/10/2019. Redacted Transcript Deadline set for 4/22/2019. Release of Transcript Restriction set for 6/18/2019. (Betts, Georgette) (Entered: 03/20/2019)
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